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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,006	02/17/2004	Brian M. Groth	GBR-100-A	9572

21828 7590 10/25/2004

CARRIER BLACKMAN AND ASSOCIATES
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NOVI, MI 48375

EXAMINER

UPTON, CHRISTOPHER

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 10/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,006

Applicant(s)

GROTH ET AL

Examiner

Christopher Upton

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. Claims 14-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 is a method of manufacture claim improperly dependent on an apparatus claim. The claim should be rewritten in independent form.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-8, 10-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weller or Dugan, each in view of Tregear or Vail.

Weller and Dugan each disclose gutter inserts having surfaces contacting three walls of the gutter and having a water flow path between the insert and the gutter, substantially as claimed. The instant claims differ from Weller and Dugan in recitation of the insert being of filaments, with a foraminous screen (claims 6-13) and being inserted below a lip of the gutter (claim 17).

It is known to provide a gutter screen of a synthetic fibrous material with a foraminous plastic screen on top, and inserted below a gutter lip, as exemplified by Tregear and Vail. It would therefore have been obvious for one skilled in the art to make the inserts of Weller and Dugan of filaments with a screen on top, to improve

filtration and water flow; and to install the insert below the gutter lip, depending on the configuration of the gutter that the insert is being installed into.

4. Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 8 above, and further in view of Chinn et al.

Claims 2 and 9 differ from claims 1 and 8 in recitation of the fibers being coconutshell fibers. It is known to use coconut fibers to filter material, as exemplified by Chinn (see column 2, lines 60-62). It would therefore have been obvious for one skilled in the art to use coconut fibers in the insert of claims 1 and 8, as a substitution of one known fibrous filtering material for another.

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 14 above, and further in view of Hunt.

Claim 16 differs from claim 14 in recitation of the insert being below the sleeves and mounting nails of the gutter. It is known to place a gutter filter below the mounting nails, as exemplified by Hunt. It would therefore have been obvious for one skilled in the art to place the filter insert of claim 14 under the gutter mounting nails, depending on the configuration of the gutter that the insert is being installed into.

6. Claim 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The recitation of a gutter insert comprising an elongated fibrous body substantially filling the gutter while leaving a substantially unobstructed water flow path below the insert, wherein the insert has an angled outer wall to space a lower portion of the insert away from a wall of the gutter to form the flow path patentably distinguishes over the prior art of record.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references of interest include Homa, Hutchison, Carpenter and Bergeron.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Upton whose telephone number is 571-272-1169. The examiner can normally be reached on 7:30-5:00, off every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'CU' or similar, written in a cursive style.

Christopher Upton
Primary Examiner
Art Unit 1724